

1 "I have been -- " well, I'll read the words the I will, I will  
2 with draw. I withdraw "I have been advised by counsel that,  
3 subsequent to, or contemporaneously with the first exchange of  
4 exhibits in this proceeding, the FCC's Review Board has  
5 released a decision in which the Board allowed an individual  
6 to explain the circumstances surrounding the crime which he  
7 committed consistent with that ruling." And that's the end of  
8 the material that I will withdraw.

9 JUDGE LUTON: Well, so that we don't get confused  
10 here, I'm about to rule in the way that would satisfy your  
11 withdrawal anyway. I'm going to sustain the objection to what  
12 I understood to have been an objection all by itself including  
13 taking out the first clause of the next sentence that says  
14 "consistent with that ruling." I know that much was objected  
15 to. What I lost sight of, Mr. Fitz-Gibon, was the rest of  
16 what you had to say. Seemed to me that your objection was  
17 carrying on to say that Mr. Schoenbohm had no right really to  
18 explain the circumstances of his conviction, that the  
19 conviction spoke for itself I believe I heard you say. Is  
20 that right?

21 MR. FITZ-GIBON: Yes, Your Honor, that's what I  
22 would was saying.

23 JUDGE LUTON: Well, that's a -- then that's, then  
24 that's a separate objection isn't it from, from the first  
25 sentence there --

1 MR. FITZ-GIBON: Yes, Your Honor.

2 JUDGE LUTON: -- argumentative? That's down. Mr.  
3 Colby withdrew something but I wasn't quite sure what he was  
4 withdrawing. I take it you're not withdrawing the last part  
5 of the paragraph.

6 MR. COLBY: That's right. I'm not withdrawing the  
7 words --

8 JUDGE LUTON: All right.

9 MR. COLBY: -- which say "I wish to explain" --

10 JUDGE LUTON: Okay.

11 MR. COLBY: -- and then where he goes on to explain  
12 the crime.

13 JUDGE LUTON: Okay.

14 MR. COLBY: And there are two case that back me up  
15 on that. The D'Alesandro case, the murder case in which the  
16 man was permitted to explain that the murder was really a  
17 barroom brawl. And the Richards case in which the man was  
18 permitted to explain that although he had been convicted of  
19 marijuana distribution he only did it for his own personal  
20 use.

21 JUDGE LUTON: I do think that's correct, that a  
22 licensee in a case such as this permitted to explain or to  
23 show context; anyway, not try the matter over again, but a  
24 show of context. I distinctly remember the Richards case  
25 dealt with the point rather explicitly. On that basis I'm

1 going to overrule the objection and permit the testimony to  
2 stand. That's 7. And other objections to 7?

3 MR. FITZ-GIBON: No, Your Honor.

4 JUDGE LUTON: Seven is received.

5 (Whereupon, the document referred to as  
6 Schoenbohm Exhibit No. 7 was received into  
7 evidence.)

8 MR. COLBY: Your witness, counsel.

9 CROSS-EXAMINATION

10 BY MR. REIDELER:

11 Q Mr. Schoenbohm, how long have you resided in the  
12 Virgin Islands?

13 A Since 1968.

14 Q And has it always been on St. Croix?

15 A Correct, yes.

16 Q Now, your residence is Kings Hill. Is that correct?

17 A Let me correct that. In 1985 I took a one-year  
18 leave of absence and lived in Ohio. It has not been a  
19 continuous residence in the Virgin Islands, but in 1985 I did  
20 live in Ohio for a short period of time.

21 Q Now, back to the Kings Hill. Is that your, your  
22 current residence?

23 A Kings Hill is a post office, and in the Virgin  
24 Islands where we have no actual place names of cities because  
25 we're not -- not of them are incorporated, that is a post

1 office. I don't reside at the post office. I reside at  
2 Constitution Hill.

3 Q Is this all part of Christiansted? Is that --

4 A No, it's not. Christiansted is a community located  
5 in the eastern third of the island. I live outside of  
6 Christiansted between the town of Christiansted and  
7 Fredriksted close to the center part of the island.

8 Q In your declaration you stated that you worked with  
9 the police department from 1979 to 1992. Who hired you for  
10 that, for that job?

11 A The Commissioner, the Commissioner of Police,  
12 Otis --

13 Q Let me, let me --

14 A -- Otis Felix.

15 Q -- rephrase that. Let me rephrase that. Was this -  
16 - were you appointed to that position as a political  
17 appointee?

18 A Originally it was considered a contract that I was  
19 given. I started as a contractual employee that was approved  
20 by Governor Juan Luis when he was Governor. And after a short  
21 period of time with the contract I was asked if I wanted the  
22 position of Chief of, of Communications which I accepted.

23 Q Did you file an application initially or were you  
24 just asked if you were interested in this position?

25 A I was asked originally if I could do something to

1 help the communications difficulties with the police  
2 department and I agreed. I subsequent to that had to fill out  
3 forms and make statements and --

4 Q And now you're, you're had of the department, or  
5 you're head of the -- you're Director of Transportation. Is  
6 that --

7 A I'm the, I'm the Coordinator of Transportation,  
8 Property and Procurement. My job does not just limit me to  
9 transportation. I'm involved in other areas and I've just  
10 been appointed as Chairman of the Communications subcommittee  
11 to make sure and standardize all the purchases of two-way  
12 communications equipment for the government.

13 Q Now, this job, was this a political appointment?

14 A Yes, this is considered a political appointment.

15 Q And who was instrumental in making that appointment  
16 for you?

17 A The Governor of the Virgin Islands, and the  
18 Lieutenant Governor Kenneth Map (phonetic sp.).

19 Q No one went to the Government and you said you ought  
20 to hire Herb Schoenbohm that you're aware of, or how did that  
21 come about if you know?

22 A I don't.

23 Q And how long have you held that position?

24 A Since May, May 21st or 24th, I don't remember the  
25 exact date, but toward the end of May is when I got my Notice

1 of Personnel Action.

2 Q Of this year, 1995?

3 A Of this year, correct.

4 Q Now, both of these departments, the Police  
5 Department and the Department of Property and Procurement, are  
6 they -- they're both under the Government of the Virgin  
7 Islands? Is that correct?

8 A That's correct.

9 Q Now, in your, your time in the Virgin Islands since  
10 1968, have you been active in, in island politics?

11 A Yes, I've run for political office myself, and I --

12 Q And when was that?

13 A -- I was Vice Chairman of the Republican Party for  
14 the Virgin Islands for many years. I, I was chosen as  
15 delegate to go to the Republican conventions, I was a floor  
16 manager for, for Robert Dole in 1988 in Houston. I was oddly  
17 enough a transportation chairman for the 1984 convention in  
18 Dallas, and also 1980 in, in Detroit, Michigan.

19 Q Now, when did this activity begin, your political  
20 activity on the Virgin Islands?

21 A After, after I went to work for the government.

22 Q And that was in --

23 A 1979.

24 Q -- 1979?

25 A Prior to that I, I had worked as a newsman so it

1 wasn't -- I wasn't really active in politics except reporting  
2 political --

3 Q And as a newsman, you had a column in a newspaper?  
4 Is that correct?

5 A No, not until, not until 1990 did I start work in  
6 writing a newspaper column.

7 Q When you were a newsman what capacity was that?

8 A I was a stringer for a CBS affiliate and reported  
9 especially disasters and accidents and major, hurricanes,  
10 floods, tornadoes, revolutions, political unrest in other  
11 islands and across the Caribbean, South America.

12 Q When you had an article were you on the byline then?  
13 Would it say written by you or --

14 A When I did radio reports I didn't have a byline  
15 except that it was -- I was the person reporting.

16 Q So, in other words your political activity has been  
17 for at least the 15 years you've held a highly profile on the  
18 Virgin Islands. Is that correct?

19 A If you say high profile, it has been more service  
20 related to a political party. It has become high profile with  
21 a talk show obviously and with the column. That was high  
22 profile in, in the '80s -- in the middle '80s and then --

23 Q Now, did you campaign for Delegate Frazer?

24 A Yes, I did.

25 Q And were you instrumental -- do you think you were

1 instrumental in --

2 A Yes, I think I was.

3 Q -- getting him elected?

4 A At least I've been told that I was.

5 Q And you think you delivered a certain amount of  
6 votes for the --

7 A It wasn't a matter of delivering votes. It was --  
8 Victor Frazer had a very, very modest amount of money to  
9 campaign against some very powerful people that had tremendous  
10 amounts of money and I afforded him an opportunity on my talk  
11 show to talk to the people and he became a very popular grass-  
12 roots supporter. He was not expected by the polls to win and,  
13 and the fact that people got to know him on my talk so. So,  
14 I, I was just there asking him questions and I did -- I also  
15 supported other candidates for that office. I tried to be  
16 objective on my show. Edgar Ross, Judge Ross was another  
17 person who was a former federal magistrate and former senator  
18 but he ran for the position as well and he was a Republican  
19 nominee. So, I wasn't narrowly one-sided on Victor Frazer. I  
20 tried to make it as open and as broad as possible.

21 Q Okay. So, that leads me to my next question. I was  
22 going to ask you if you were active for other candidates at  
23 other -- in other elections. Is that correct?

24 A I was active for other Republican candidates when I  
25 was on the team.



1 Q This is for the 15 years or so you were --

2 A When I ran for the senate, yes.

3 Q You, you ran for the senate but you, you campaigned  
4 for others? Is that --

5 A Well, when you're, when you're the winner of a  
6 primary and you have a slate of seven seats you're one of  
7 seven and you try to bring the team in. It's an objective to  
8 try to get all of your party elected so you can form a  
9 majority in the legislature and you have some ability to, to  
10 legislate.

11 Q So, you in fact did win a primary. Is that correct?

12 A I did in fact win, win a primary, yes.

13 Q Now, your position on the police department, that  
14 result from your, from your political assistance to other  
15 candidates or --

16 A I don't believe so. I don't believe so. I, I was  
17 told they needed somebody that could do -- get the job done  
18 and they, they asked me if I would be willing to do it.

19 Q Now, you mentioned that you were a talk show host.

20 A Yes.

21 Q How long have you held that position?

22 A In 1980 I held a position as a talk show host on  
23 radio station WWVI which is a CBS affiliate for one year and I  
24 made some comment about Delegate DeLugo (phonetic sp.) at  
25 that time and who put tremendous pressure on the station and I

1 | lost my position as a talk show host in 1980, but I continued  
2 | to serve that station as a contract engineer and I did not  
3 | return to the talk show circuit until 1992.

4 |       Q     So, you were essentially about a year --

5 |       A     I was on for a year.

6 |       Q     -- in 1980 and then you returned in 1992?

7 |       A     1992, correct.

8 |       Q     And are you still -- do you still hold that  
9 | position?

10 |       A     I still have a contract with a radio station.

11 |       Q     Are you still broadcasting?

12 |       A     No. Only if there is a disaster or an emergency  
13 | that they would call me on to assist in disseminating  
14 | information to the general public.

15 |       Q     When did your talk show tenure end then?

16 |       A     We're talking about the station in St. Thomas,  
17 | WWVI, correct?

18 |       Q     I'm talking about from your second -- you had, you  
19 | had the position in 1980 for the rest of the year.

20 |       A     Okay.

21 |       Q     Then you said you came back later on.

22 |       A     Yes, and now I work for radio station WRRR.

23 |       Q     And when did that begin?

24 |       A     I don't know the exact date. In 1994 when they had  
25 | a change of ownership and they went -- changed to a talk

1 format. I think it was '94.

2 Q And when I asked if you were still holding that  
3 position, that's what I was addressing.

4 A I, I have resigned my position as a compensated talk  
5 show host for WRRR, but I am still on WRRR doing community  
6 information, reading community bulletin boards and allowing  
7 people who want to call in and ask questions.

8 Q So, essentially you still have a show but you --

9 A I still have a show but I'm not compensated for the  
10 show. I didn't think it would be appropriate considering that  
11 I'm --

12 JUDGE LUTON: All right. That's good. All right.  
13 These answers are becoming fuller than they need to be. We'll  
14 never get done if you keep that up.

15 BY MR. REIDELER:

16 Q And how often is the show aired?

17 A Presently?

18 Q Yeah. A daily show?

19 A Monday through Friday, but most of the time it's  
20 pretaped. Many -- most portions of -- some portions of --

21 Q Well, I mean how long is it on the air?

22 MR. COLBY: Your Honor, may I interject just a  
23 moment? Apparently someone is making a private audio  
24 recording of these proceedings and I object to that. This is  
25 a federal courtroom and it's not permitted in federal

1 | courtrooms. I think that should not be done.

2 | JUDGE LUTON: This isn't a federal courtroom and I  
3 | don't know of anything that prohibits somebody from recording  
4 | these sessions on tape anymore than writing taking notes or  
5 | doing whatever. The, the -- these proceedings are public and  
6 | I understand that to mean public in every way. There is no  
7 | reason why what goes on here that I'm able to discern anyway  
8 | shouldn't be available to people to tape record as well as to  
9 | see and hear. It is an objection about which I will do  
10 | nothing because I can't do anything. Proceed.

11 | BY MR. REIDELER:

12 | Q And how often is the show aired? Talk show.

13 | A Please repeat your question.

14 | Q Your, your talk show that you host --

15 | A How often?

16 | Q Yes.

17 | A On a daily basis.

18 | Q Comes on daily?

19 | A Monday through Friday.

20 | Q Half hour?

21 | A Between a half hour and 45 minutes.

22 | Q And where is the station located?

23 | A In Fredriksted.

24 | Q And does the signal cover the entire island of St.  
25 | Croix?

1           A     Not well. I --- it's only a 500-watt station, the  
2 island is 27 miles long. There are portions of the island  
3 that you cannot pick up the station.

4           Q     But how about in the metropolitan areas?

5           A     There are portions of the metropolitan area of  
6 Christiansted where you cannot cover the station -- where you  
7 cannot pick up the station due to computer interference. But  
8 in the town of Fredriksted for which it's licensed, a very  
9 small community, it has proper coverage.

10          Q     Thank you. While at the police department did you  
11 make contributions to your pension fund?

12          A     I think it was mandatory but I'm not sure.

13          Q     Do you know what percentage of your income went to  
14 the fund?

15          A     No, I don't. I don't.

16          Q     Did the government match the funds?

17          A     I don't know.

18          Q     What are, what the retirement polities of the  
19 Government of the Virgin Islands? In other words, how long  
20 does one has to work before one is eligible to retire?

21          A     It depends upon if you're in hazardous, in a  
22 hazardous job or a nonhazardous job. It varies.

23          Q     I presume your job is not hazardous.

24          A     Police department employment was considered  
25 hazardous. Working for the power company was considered

1 hazardous. Working for the president job it's not hazardous.

2 Q But at the police department your job was considered  
3 hazardous?

4 A Well, I drove a marked police car much of the time.

5 Q Okay. Given that, what would -- when would you be  
6 able to retire?

7 A I don't know, I don't know, because there's a,  
8 there's a series of negotiations going on now with the union.  
9 I don't know. Can't answer that.

10 Q Well, how about at the time you were employed?

11 A I believe it may have been 20 years but I'm not  
12 sure.

13 Q And when you retire what percentage of your income  
14 will you be receiving?

15 A I don't know.

16 Q When you were fired from the police department was  
17 your contribution refunded?

18 A I don't know. I, I, I can't answer that.

19 Q You don't know if they sent you a check?

20 A I really don't recall. I received some, some  
21 severance but I don't remember what precisely it was  
22 stipulated as covering.

23 Q So, when you quit you don't know whether or not you  
24 forfeited your pension or not. Is that correct?

25 A You used the word fired a moment ago, now you said

1 quit.

2 Q Well, fired, excuse me. I understand that you were,  
3 were terminated. Is that correct?

4 A I was terminated, correct.

5 Q So, fired would be the correct terminology?

6 A Well, what is your question?

7 Q When, when you were fired from the police department  
8 did you forfeit your pension?

9 A I don't know.

10 Q When you were rehired by the Virgin Islands -- by  
11 the Government of the Virgin Islands in your present position,  
12 were you given an option to put money back into the retirement  
13 fund to cover the years that you had served before?

14 A I haven't received that kind of correspondence.

15 Q So, in other words you really don't know. Is that  
16 correct?

17 A I don't know.

18 Q Now, do you know if your former service and your  
19 present service were tapped for terms of retirement?

20 A I would presume so, but I don't know for sure. I, I  
21 would presume so.

22 Q In your declaration, paragraph 2, you mention that  
23 the -- this is a quote, "The maximum amount of money specified  
24 by the government against me was \$1,047." Could you please  
25 explain what you meant by that?

1           A     The government in order to claim a federal nexus  
2 required an amount on the indictment that was in excess of  
3 \$1,000 to have jurisdiction and the original charge specified  
4 an amount of \$1,047. Subsequent to that, the convictions were  
5 -- that had reference to those amounts were overturned when it  
6 was found that the telephone calls to which those amounts  
7 referred to were not made by me and there was no connection  
8 with me or my family. So, that was the amount that was  
9 specified by the government in the charge.

10           MR. REIDELER: I have no further questions. Thank  
11 you.

12           JUDGE LUTON: Redirect?

13                         REDIRECT EXAMINATION

14           BY MR. COLBY:

15           Q     Mr. Schoenbohm, I'm calling your attention to page 1  
16 of Schoenbohm Exhibit 1. In the paragraph number 3 you refer  
17 to the loss of retirement benefits associated with the job  
18 amounting to at least \$150,000. Do you see that?

19           A     This is Schoenbohm Exhibit 7?

20           Q     No, this is Exhibit 1. Exhibit 1.

21           A     Exhibit 1, first -- second paragraph?

22           Q     Page 3.

23           A     Oh, page 3.

24           Q     Paragraph 3.

25           A     Paragraph 3, okay, yes.



1 Q What do you mean by that?

2 A That the, the loss of the benefits -- the retirement  
3 benefits as a result of losing the position there were no more  
4 retirement benefits or ability to pay into the retirement  
5 fund. There was no way that, that I could, I could have any  
6 benefits.

7 Q Well, were you still have gotten your pension?

8 A No, no, no.

9 Q That's, that's all I want to make clear.

10 MR. COLBY: Your Honor, I have no further questions  
11 for this witness.

12 JUDGE LUTON: Recross?

13 MR. REIDELER: I have no recross, Your Honor.

14 MR. COLBY: You may step down.

15 JUDGE LUTON: I was just going to ask about that.  
16 You went from -- Mr. Colby, you went to 7. That leaves 3, 4,  
17 5 and 6. These I take it will not involve Mr. Schoenbohm's  
18 testimony.

19 MR. COLBY: I have Exhibit 3 is the tape recording  
20 which we have stipulated to the accuracy of. And Exhibit 4 is  
21 the delegate's statement which we have stipulated to. Exhibit  
22 5 is Malcolm Swan we stipulated to. Exhibit --

23 MR. FITZ-GIBON: Correction, Your Honor. We didn't  
24 -- the, the Bureau has agreed not, not to, not to cross-  
25 examine --

1 MR. COLBY: Oh, yes --

2 MR. FITZ-GIBON: We didn't, we didn't stipulate to,

3 to the --

4 JUDGE LUTON: That's really not what I'm interested

5 in right now. I'm only interested in whether Mr. Schoenbohm

6 can be excused here.

7 MR. COLBY: Exhibit 6 is Mr. Dellinger (phonetic

8 sp.) who is present here and I have -- I believe I have moved

9 for admission of Exhibit 7 and it was received.

10 JUDGE LUTON: Yes, you did.

11 MR. COLBY: Yes. And so I have no more testimony

12 for Mr. Schoenbohm.

13 JUDGE LUTON: How about the Bureau? Do you intend

14 to do any more with Mr. Schoenbohm? No?

15 MR. REIDELER: No, Your Honor.

16 JUDGE LUTON: All right. Mr. Schoenbohm, thank you

17 very much. You may step down.

18 WITNESS: Thank you, sir.

19 JUDGE LUTON: You're excused.

20 MR. COLBY: At this time I'd like to offer

21 Schoenbohm Exhibit 3, and I know the Bureau has some

22 objections to it so I'll --

23 (Whereupon, off the record.)

24 (Whereupon, on the record.)

25 JUDGE LUTON: Three for identification.

1           MR. COLBY: Three has been -- I have handed the  
2 reporter two copies of Exhibit 3 and it consists of a document  
3 11 pages in length and we have stipulated that the document is  
4 an accurate transcription of a tape recording made by one Hugh  
5 LeBlanc on April 3rd, 1995, and I'll offer the exhibit at this  
6 time.

7                           (Whereupon, the document referred to as  
8 Schoenbohm Exhibit No. 3 was marked for  
9 identification.)

10           JUDGE LUTON: And I take it that the Bureau's  
11 concern with this is that it contains irrelevant matter.

12           MR. FITZ-GIBON: That's correct, Your Honor.

13           JUDGE LUTON: Yeah. The Bureau offered a much  
14 shorter version of all this -- it tends to offer or indicated  
15 that it intended to offer in its direct case a much shorter  
16 version. Namely, so much of the transcript as resulted in the  
17 addition of the issue.

18           MR. FITZ-GIBON: That's, that's correct, Your Honor.  
19 And also, our transcript did not include the remarks by Mr.  
20 LeBlanc because they did not actually go out over the air and  
21 they weren't part of the, of the transmissions.

22           JUDGE LUTON: Okay. Mr. Colby, you think that all  
23 of this is relevant no doubt.

24           MR. COLBY: Let me put it this way. There used to  
25 be a fellow by the name of Baubler (phonetic sp.) who wrote

1 travel books and he would clean up the places that he wrote  
2 about. I object to the introduction of a Baublerized  
3 transcript. If we're going to use a tape recording then I  
4 want entire flavor and the context of the tape recording in  
5 evidence. I object to taking portions of it out and  
6 selecting -- and doing selective editing on it. I don't  
7 object to the introduction of the entire transcript of the  
8 entire tape recording, but to the extent that we edit the tape  
9 recording we change the context and the context is very  
10 important in light of this ex parte issue. It is important  
11 that my client be seen as is the case discussing normal ham  
12 radio matters with other amateurs and that it not be made to  
13 appear that all he talked about on this date was this  
14 proceeding.

15 MR. FITZ-GIBON: Your Honor, the Bureau will, will  
16 stipulate that, that Mr. Schoenbohm also was talking about  
17 other matters.

18 JUDGE LUTON: That good enough for you, Mr. Colby?

19 MR. COLBY: No.

20 JUDGE LUTON: You want to show what those other  
21 matters were?

22 MR. COLBY: I feel that if we're going to use tape  
23 recordings -- the Commission's rules 1.357 really don't permit  
24 the introduction of tape recordings but they do provide for  
25 making up transcripts. If we're going to make transcripts of

1 tape recordings and if we're going to use tape recordings, the  
2 entire document should go in so that the context is clear. I  
3 trust the Administrative Law Judge to use sufficient  
4 discretion to have the judgment to determine what's relevant  
5 and what's not. But I think that the Judge should be allowed  
6 to do that with a full record and to have a full record he  
7 really needs to have before him the entire conversation.

8 JUDGE LUTON: What is the entire conversation?  
9 Where does this start?

10 MR. COLBY: Well, it starts --

11 JUDGE LUTON: Got a number 1 here. Is there some  
12 more before it -- before this number 1 that doesn't show up  
13 here?

14 MR. COLBY: We really --

15 JUDGE LUTON: How much in other words is necessary  
16 to show context as you put it?

17 MR. COLBY: There is -- this is the entire tape  
18 recording. In other words, everything that's on the tape  
19 recording is in this transcript. It is the entire tape  
20 recording.

21 MR. FITZ-GIBON: I believe it's only side 1, Your  
22 Honor.

23 MR. COLBY: Well, that's right, side 1. We did, we  
24 did agree that side 2 which is mostly noise and, and  
25 irrelevant --

1 JUDGE LUTON: So, a judgment has been made. Some  
2 exercise of judgment has been made about what constitutes the  
3 entire conversation for purposes of this transcript?

4 MR. COLBY: Well, because side 2 is really mostly  
5 just gibberish. On side 2 you hear things like LeBlanc  
6 calling another station, the station doesn't answer anyway.  
7 So then he calls again and the other station doesn't answer.  
8 Then the other station calls him and nobody answers, and, and  
9 there's really no conversation at all on side 2.

10 JUDGE LUTON: Well, I haven't read your reworked  
11 version of the conversations here, but I must say what I had  
12 received over the last several days also seemed like gibberish  
13 in large part.

14 MR. COLBY: Well, that's, that's the point though,  
15 Your Honor. There was a lot of irrelevant gibberish. It  
16 wasn't a long political speech seeking improper intervention  
17 in this proceeding.

18 MR. REIDELER: Your Honor, we'll stipulate that it  
19 was gibberish.

20 JUDGE LUTON: In terms of admissibility, why, why,  
21 why should I stipulate it's gibberish? Why then should  
22 gibberish be received in, in this record?

23 MR. COLBY: To, to -- for exactly that reason, that  
24 it -- that the -- taking the short version that the Bureau  
25 wanted to put in evidence makes it appear that Herb Schoenbohm

1 got on the air that day --

2 JUDGE LUTON: All right. Let me stop you right  
3 there. I'm prepared to take more than just what the Bureau  
4 offered. I realize that there can be a danger and an  
5 unfairness in simply taking the selected portion of the  
6 transcript. Namely, only that which appears to support  
7 position. I'm prepared to take more than that. But what I  
8 have questions about is why should I take all of this stuff?  
9 All of this shows context? All it does is confuse me when I  
10 read it.

11 MR. COLBY: Well, the first, the first part it  
12 starts out with him talking about the weather, talking about  
13 his antenna, talking about normal things that radio amateurs  
14 talk about. Now, of course if I had my druthers you'd take  
15 that part and not take the rest of it but I don't think the  
16 Wireless Bureau would agree with me to that -- on that. But  
17 it starts out with this talking about normal things that  
18 amateurs normally talk about on the air.

19 JUDGE LUTON: Therefore, so, so, so what? I mean,  
20 what's, what's --

21 MR. COLBY: It shows that that's what -- that the  
22 main point of the conversation was ordinary amateur things. In  
23 fact, it takes -- you go a good four pages before there's any  
24 mention of this proceeding even in an indirect way.

25 JUDGE LUTON: And so the fact that four pages of

1 conversation preceded the one --

2 MR. COLBY: No, they --

3 JUDGE LUTON: -- the Bureau is interested in somehow  
4 softens the, the effect?

5 MR. COLBY: Well, at page 3 in particular there is,  
6 there is some language which is supported by the witness's  
7 testimony this morning in his exhibits. At page 3 Schoenbohm  
8 starts reading to other amateurs about the amateur rules and  
9 he actually quotes at length from the amateur rules. One of  
10 Schoenbohm's defenses in this proceeding to the ex parte issue  
11 which -- and we'll have a witness to back him up on that  
12 defense, Mr. Dellinger, is that all he was doing was  
13 describing the ex parte rules and that this was not unusual  
14 for him because he constantly reads from the Commission rules  
15 and describes the Commission's rules. In fact, he's a rule  
16 buff. And this is confirmed, if you look at the bottom of  
17 page 3 and the top of page 4, where he quotes extensively from  
18 the FCC's rules.

19 JUDGE LUTON: I didn't hear Mr. Schoenbohm this  
20 morning say that he was saying anything about the, the ex  
21 parte rules here. You said Mr. Dellinger is going to tell us  
22 that this is what Mr. Schoenbohm was doing? Is that what you  
23 said?

24 MR. COLBY: Yes, and Mr. -- in, in the statement  
25 which Mr. Schoenbohm corrected this morning he also says that